

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

REPLY COMMENTS OF CITY OF LANSING, MICHIGAN

The City of Lansing, Michigan (the "City") submits these Reply Comments to address the second issue raised in the Commission's Second Further Notice of Proposed Rulemaking ("FNPRM") and responded to by NCTA and others – the "mixed use rule."

In its Comments filed in this proceeding, the City made the point that the State of Michigan has already established an ample and sufficient regulatory framework for addressing the concerns that the Commission is attempting to address in its FNPRM. Exercising statutory authority from the State of Michigan, the City has been able to successfully issue multiple franchises in recent years without any complaint from providers as to the terms or the process. The City also takes note that the Michigan Public Service Commission has now filed Reply Comments in this proceeding making this very same point – that the State has its own legal framework for video provider franchising.

The same State statutory and regulatory systems that have enabled cable and video providers to successfully enter the market in Michigan have also delineated regulatory boundaries between regulation and requirements applicable to a video provider and those applicable to a telecommunications provider. For example, under Michigan's Uniform Video

Services Local Franchises Act a video service provider is entitled to a credit toward fees due under that Act if it has paid certain fees under the Metropolitan Extension Telecommunications Right-of-Way Oversight Act as a telecom provider, thus ensuring that regulation is coordinated and not duplicative where providers may offer services that apply to both Acts. See MCL 484.3306(11).

In addition, the existing regulatory framework has proven adaptable to changing technologies, as the City has been able to successfully meet the needs of providers bringing new technologies to the market. Thus, when the City was recently approached by providers seeking to place poles and antennas in the public rights of way for small cell deployment, the City successfully established a process that has enabled the issuance of multiple permits for placement of small cell facilities in the City. It is therefore clear that the City already has the necessary tools and knowledge to successfully manage appropriately regulation of a variety of communications technologies, both new and old, as they seek access to the City's rights of way. As the City pointed out in its Comments, attempts by the Commission to preempt the local authority exercised under State law by the City could lead only to confusion and controversy, disrupting what is currently a reasonably efficient permitting system functioning without complaint from providers.

For the reasons cited herein and in its previously filed Comments, the City of Lansing opposes the Commission's proposal to interpret non-fee, in-kind cable requirements as franchise fees, to allow fees to be deducted from the five percent fee cap, and to apply the "mixed use" rule to the City's ability to regulate under state law. The City encourages the Commission to continue its policy of limiting its decisions affecting local franchising authorities to those jurisdictions

where state law has not already addressed the issues, thereby avoiding encroaching on established state law and constitutional rights.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy J. Lundgren', with a stylized, flowing script.

Timothy J. Lundgren
Outside Counsel for City of Lansing

December 14, 2018

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